

CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 05/16/06

AGENDA ITEM 3

WORK SESSION ITEM

TO: Mayor and City Council
Redevelopment Agency Board

FROM: City Manager

SUBJECT: Consideration of a Public Facilities Development and Property Exchange Agreement with the Hayward Unified School District and Hayward Area Recreation and Park District.

RECOMMENDATION:

It is recommended that the City Council and the Redevelopment Agency Board adopt the attached resolutions which make certain findings relative to the project, and authorize the City Manager/Executive Director to execute the Public Facilities Development and Property Exchange Agreement (PFDA) with the Hayward Unified School District, the Hayward Area Recreation and Park District.

DISCUSSION:

The purpose of the Public Facilities Development and Property Exchange Agreement (Agreement) is to set forth the rights and obligations of the agencies involved in the Cannery Park and New Burbank School project. There are four parties to the agreement: the City of Hayward (City), the City of Hayward Redevelopment Agency (Agency), the Hayward Unified School District (District), and the Hayward Area Recreation and Park District (HARD).

Generally, the Agreement, describes the roles, responsibilities and obligations with respect to the design and construction of Cannery Park and the new school, the exchange and transfer of properties among the parties in connection with the project, the improvement and joint use of the Park, the assignment of certain development fees to the Agency to partially compensate it for the costs of the project and the statutory requirements regarding Redevelopment Agency pass-through payments to HUSD.

In addition to approving the Agreement, staff is recommending that the City make certain findings with respect to the environmental impact of the project and certain determinations as required by Redevelopment law. These issues are discussed more fully in the following sections.

Major Elements of the PFDA:

Design and Construction of Cannery Park and Burbank School – The City will contract for and the Agency will be responsible for the payment of the cost of design and construction of the new school and deconstruction of the existing one. This includes obtaining State regulatory approval of the site by the California Department of Toxic Control Substances (DTSC), completion of any remediation of the joint-site which may be required and seeking approval of the California Department of Education (CDE) for the new school. The new school has been designed and will be built to the District's standards and pursuant to plans and specifications approved by the State Architect. The District will be responsible for the payment of the cost and installation of the furniture, fixtures and equipment for the school.

HARD is responsible for designing and constructing improvements in accordance with the Cannery Park Master Plan, which was approved by the HARD Board in November, 2005. The Agreement sets forth milestones for this to be accomplished to ensure the park project is completed as part of the joint-use site requirements for the new school. The Agency is responsible for the payment of the cost of construction of the improved park, including any required remediation of the site.

Exchange and Transfer of Properties - The Agreement provides for an exchange between the Agency and District of the existing school site for the new site following construction of the new school and a determination that the new building is ready for occupancy. It also allows the Agency to enter into an exclusive negotiation agreement with a developer for the redevelopment of the existing school site prior to the exchange of properties and further requires the District's cooperation in obtaining any land use entitlements as part of that process. Proceeds from the final disposition of the existing site will be used to partially offset the costs of the school.

The Agreement also provides for a series of property exchanges between the Agency/City and HARD in order to provide for the operation and maintenance of the expanded and improved park and school, as well as the street improvements surrounding the site.

Improvement and Joint Use of the Park – The Agreement provides that joint use of the Park by the District and HARD will be in accordance with the Master Facility Use Agreement approved by both agencies in August of 2005.

Assignment of Certain Development Fees – The District is entitled to receive certain school impact fees for the residential development expected in the Cannery Area. The Agreement provides that the District will assign to the Agency those school impact fees attributable to certain properties in the Cannery Area to partially reimburse the Agency for the cost of the school, consistent with the budget and related information previously reviewed by the elected officials of all three agencies.

Similarly, the City will collect park-in-lieu fees for the development of residential properties expected in the Cannery Area. The Agreement provides that the City will assign to the Agency the City's rights to receive the portion of the park-in-lieu fees attributable to these areas, again to reimburse the Agency for the cost of the expanded and improved Cannery Park.

Pass-Through Payments to the District – Currently, according to State statute, the Agency makes certain Pass-Through Payments (Payments) to the District according to a set formula and are allocated from the property tax increment collected annually from the Redevelopment Project Area. State law provides that if the Agency constructs a school public facility, the Agency must reduce its Payments by any amount the Agency has paid in connection with the publicly owned facility. Therefore, the Agreement recognizes that the Agency will retain annually 56.7 % of the Payment which is fixed under state law until such time as the Agency is reimbursed for the cost of the new school. The sale of the existing school site, the assigned school impact fees and a developer contribution to the new Burbank School will offset the amount to be retained by the Agency. Based on current cost estimates, is anticipated that these retentions will remain in effect until 2044.

Funding/Budget Estimate – The Agreement also provides for a funding/budget schedule. This schedule represents the parties' good faith budget estimate as of the date of the Agreement of the funds to be expended by the Redevelopment Agency for the cost of the expanded park and new school including any site remediation and deconstruction of the existing Burbank school. The estimated amount of Agency tax increment to be used for the land acquisition, site remediation and construction of the new school is estimated to be \$31,706,935. The Budget Estimate schedule also specifies funding sources which will be used to reimburse the Agency, including a developer contribution (\$5 million), sale of the residual school site (\$4.2 million), school impact fees (\$3.5 million), retention of pass through payments (\$18.9 million), and Park-in-lieu fees (\$4.7 million).

Following execution of the Agreement, completion of right-of-way acquisitions, bid awards for various components of the project, the budget will be refined on a continuing basis to accurately reflect the actual costs of the project. Revised budgets will serve as the basis for reimbursement to the Agency of funds expended on the project.

Environmental Impact Findings and Redevelopment Law Determinations

Findings of No Significant Effect on the Environment -- The California Environmental Quality Act (CEQA) requires state, local, and other agencies to evaluate the environmental implications of their actions on projects. As the lead agency for the construction of the new Burbank School project, the Hayward Unified School District was required to consider and take action on the related environmental documents before taking any action on the project itself. The environmental documents prepared for the new Burbank School project included an Environmental Checklist (also known as an Initial Study) and a Mitigated Negative Declaration, which concluded that, with specific identified mitigation measures incorporated into the project, the project would not have a significant adverse impact on the environment. Accordingly, staff recommended and the HUSD Board adopted the Mitigated Negative Declaration and the Mitigation Monitoring Program, on May 10, 2006. The City/Agency is required to consider the Mitigated Negative Declaration, including the Mitigation Monitoring Program, as part of this action. These two documents are attached.

In accordance with State law, the public as well as other state and local agencies were advised of the availability of the environmental documents and were invited to comment upon them. No members of the public commented. The San Francisco Bay Regional Water Quality Control Board (RWQCB), did respond and comment. For the Burbank School project, a portion of Sulphur Creek, which is a concrete-lined channel, would be enclosed in a boxed concrete culvert and portions of the school parking lot and play fields would be situated atop the culvert. RWQCB indicated that the mitigation measures listed in the document relative to Sulphur Creek were insufficient. RWQCB indicated a preference for removing the concrete from the channel and restoring it to its natural state.

Subsequent to receiving their comments, City staff met with executive staff from the RWQCB met to discuss how covering the concrete-lined channel could be adequately mitigated. An alternative mitigation measure was discussed which includes restoring 60 feet of existing concrete lined channel as well as opening up 58 feet of Sulphur Creek which is now in a box culvert at the western portion of the project site, close to the railroad right-of-way. As a result, there would be a widened and landscaped 119-foot-long open channel. This is in addition to the mitigation provided by improving 1423 ft of existing Sulphur Creek at the Hayward Airport. The mitigated negative declaration was amended to reflect this change. RWQCB has tentatively indicated this alternative to be an acceptable mitigation measure.

In their comment letter, the San Francisco Bay RWQCB also stated that an Environmental Impact Report (EIR) prepared in 2001 for the Hayward Cannery Area Design Plan, within which the school project lies, did not adequately address alternatives with respect to Sulphur Creek. The EIR referred to is a Program EIR which was prepared for the Cannery Area within the City of Hayward. The Program EIR evaluated the potential environmental impacts associated with a conceptual plan for the area that involved not only a new school/park site, but extensive housing opportunities as well. Specific project details and design were not available at the time and therefore certain impacts were anticipated to be addressed at the time of specific project proposals. In accordance with state law, the Program EIR was circulated for comments to all responsible agencies, including RWQCB and the US Army Corps of Engineers (the Corps) at that time. The RWQCB did not respond to the Program EIR. The Corps did respond and indicated that a permit may be required for work within Sulphur Creek and that the application for the permit should include reasons why there is no practical alternative to the project. The Program EIR was subsequently certified in 2001 without challenge. As individual project applications within the Cannery Area are considered, each project will undergo environmental review to ensure compliance with the Program EIR, as is the case for the Burbank School/Park project.

The draft resolutions find that there is no substantial evidence that the project will have a significant impact on the environment.

Redevelopment law requires that the RDA Board make certain determinations with respect to a project to ensure that the project is qualified to receive RDA funds. These determinations are discussed in the following sections and correspond to the attached resolutions.

Benefit to the Downtown Redevelopment Plan-- The construction of the new Burbank School and the expanded Cannery Park will be of significant benefit to the Downtown Redevelopment Plan and the Cannery Area. The new school site is generally surrounded by a mixture of single and multi-family dwellings on the east, older industrial uses to the south and railroad tracks to the west. The Burbank area to the east is one of the earliest residential settlements in the City of Hayward. Non-residential uses consist of a mix of public and private uses. The older industrial uses are no longer suitable for a neighborhood adjacent to the downtown which is transitioning to residential uses, the existing Burbank School is over 40 years old and can not support the needs of the school population, the street network is inadequate for good access to the Amtrak and BART stations and the City's downtown, and the park can no longer handle its use as a destination regional facility. A new school and an expanded and improved park, along with the improved street network will provide critically needed public facilities and infrastructure to support the redevelopment of the adjacent, large, older industrial properties to residential use.

No Other Means of Financing the New Burbank School -- Without the assistance of the Agency, the District would be unable to build a new school. The existing Burbank School, which is over forty years old and has 18 portable units on site to supplement the permanent classrooms, is considered by the District to be an obsolete school in terms of its age, maintenance demands, and overall functionality as a facility to support the needs of the existing school population. The District has no other means of financing a new school in this area.

Assist in the Elimination of Blighting Conditions -- The project will assist in the elimination of blighting conditions within the Redevelopment Project Area. As previously noted, the proposed project will not only benefit the existing Burbank community, but will directly facilitate the redevelopment of the deteriorated and obsolete industrial property located just south of the project. This area has been approved for 628 new residential dwelling units, and approximately 165 additional dwelling units will likely be proposed for development within a few years. In addition, the proposed project will enhance property values for existing residential properties in the area, improve access to Meekland Avenue, and will also result in environmental remediation of contaminated former Cannery lands at Cannery Park. Further, the Agency adopted its 2005-2009 Implementation Plan in December 2005. The Implementation Plan includes all components of the proposed project as proposed activities.

NOTICES:

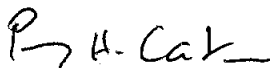
Notice of this Joint Public Hearing was published in The Daily Review during the past two weeks, and a copy of the PFDA Summary Report (attached) prepared pursuant to Health and Safety Code Section 33433 and the proposed PFDA have been available in the City Clerk's office for the same period.

CONCLUSION:

Staff recommends that the Agency Board and City Council approve the PFDA and make the appropriate findings and determinations. The HUSD Board approved the PFDA on May 10, 2006. The HARD Board is scheduled to consider the agreement at their meeting on May 22, 2006.

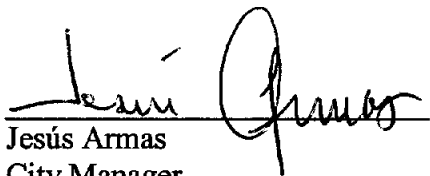
The next major step for the entire project is a call for bids in November for the construction of the new school followed by the start of construction in March 2007. The new school will open at the start of the 2008 academic year. HARD is also proceeding with the plans and specifications for the expanded and improved Cannery Park, to coincide within this overall timeframe.

Prepared by:



Perry Carter, Acting Assistant City Manager

Approved by:



Jesús Armas
City Manager

Attachments: Resolutions (2)

DRAFT NH
5/11/06

HAYWARD CITY COUNCIL

RESOLUTION NO. _____

Introduced by Council Member _____

**RESOLUTION APPROVING A PUBLIC FACILITIES
DEVELOPMENT AND PROPERTY EXCHANGE
AGREEMENT AND MAKING FINDINGS PURSUANT TO
HEALTH AND SAFETY CODE SECTION 33445**

WHEREAS, the City Council of the City of Hayward ("City") has adopted a redevelopment plan for the Downtown Hayward Redevelopment Project ("Redevelopment Project Area") by Ordinance No. 75-029 C.S., as amended, which is being implemented by Redevelopment Agency of the City of Hayward ("Agency"); and

WHEREAS, the Hayward Cannery Area Design Plan ("Design Plan") was adopted by the City on July 24, 2001, in order to provide for the reuse of the area subject to the Plan ("Design Plan Area") with a mix of residential, commercial and institutional uses; and

WHEREAS, the Burbank Elementary School (the "Existing Burbank School Site") is located with both the Redevelopment Project Area and the Design Plan Area and adjacent to the existing Cannery Park operated by the Hayward Area Recreation and Park District; and

WHEREAS, the City, the Agency, the Hayward Unified School District ("School District") and HARD have prepared a proposed Public Facilities Development and Property Exchange Agreement in the form attached hereto as Exhibit A (the "Agreement"), pursuant to which: (1) the City and the Agency will acquire property for, design and construct a replacement for the Existing Burbank School (the "New Burbank School") which, upon completion fo the New Burbank School, will be exchanged for the Existing Burbank School, and (2) HARD will improve and the Agency will pay for the improvement of Cannery Park in connection with the development of the New Burbank School; and

WHEREAS, in connection with the approval of the Agreement, and initial study and mitigated negative declaration ("Mitigated Negative Declaration") has been prepared by the School District pursuant to the California Environmental Quality Act ("CEQA") (Public Resources Code Section 21000 et seq.), including a mitigation monitoring plan, and notice of intent to adopt the Mitigated Negative Declaration has been given as required by law. A copy of the Mitigated Negative Declaration is attached hereto as Exhibit B. The City has considered the Mitigated Negative Declaration; and

WHEREAS, Health and Safety Code Sections 33445 and 33679 authorize the Agency to pay the cost of the land for and the cost of constructing the New Burbank School following a public hearing and upon the approval of the City and the School District; and

WHEREAS, a report has been prepared pursuant to Health and Safety Code Section 33679 (the "Report") and made available for public inspection which contains a summary including an estimate of the cost of the Agreement to the Agency, the facts supporting the determinations required to be made pursuant to Health and Safety Code Section 33445 and the redevelopment purpose for which funds will be expended pursuant to the Agreement; and

WHEREAS, on May 23, 2006, the City held a duly noticed public hearing on the proposed Agreement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward as follows:

1. On the basis of the whole record before it, the City hereby finds that there is no substantial evidence that the project as set forth in the Agreement will have significant effect on the environment.
2. On the basis of the whole record before it, including, without limitation, the Report, the City further finds and determines as follows:
 - a. That the construction of the New Burbank School will be of benefit to the Redevelopment Project Area and the immediate neighborhood in which the Redevelopment Project Area is located.
 - b. That no other reasonable means of financing the New Burbank School is available to the community.
 - c. That the payment of funds pursuant to the Agreement for the acquisition of land and cost of construction of the New Burbank School will assist in the elimination of one or more blighting conditions within the Redevelopment Project Area and is consistent with the Agency's implementation plan adopted pursuant to Health and Safety Code Section 33490.
3. The City hereby approves the Agreement and authorizes its execution by the City Manager subject to such minor, non-substantive changes as may be approved by the City Attorney. The City further authorizes the City Manager to take such other and further actions, including, without limitation, the execution of any documents necessary to carry out the provisions of the Agreement on behalf of the City.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2006

ADOPTED BY THE FOLLOWING VOTE:

AYES: AGENCY MEMBERS:

CHAIR:

NOES: AGENCY MEMBERS:

ABSTAIN: AGENCY MEMBERS:

ABSENT: AGENCY MEMBERS:

ATTEST: _____
Secretary of the Redevelopment Agency
of the City of Hayward

APPROVED AS TO FORM:

General Counsel

EXHIBIT A

**Public Facilities Development and
Property Exchange Agreement**

**The Public Facilities Development and
Property Exchange Agreement is
On File in the City Clerk's Office**



HAYWARD UNIFIED SCHOOL DISTRICT

MITIGATED NEGATIVE DECLARATION

Notice is hereby given that the Hayward Unified School District finds that no significant effect on the environment as prescribed by the California Environmental Quality Act of 1970, as amended will occur for the following proposed project:

I. **PROJECT DESCRIPTION:**

- Reconfiguration of the property boundaries of the Burbank School (6.36 acres) operated by Hayward Unified School District and Cannery Park, owned and operated by the Hayward Area Recreation and Park District (7.4 acres), resulting in approximately 14.91 acres devoted to the primary school site and the shared park/school recreation area, on lands consisting of a portion of the existing Burbank School owned by the Hayward Unified School District (HUSD) (Assessor's Parcel Number 431-0024-001-00); seven residential parcels (431-0024-003-00 through -009-00) and portions of two industrial properties (portions of 431-0024-010-08, 431-0020-001-09 and 431-0020-003-03) owned or to be acquired by the Redevelopment Agency of the City of Hayward, the existing Cannery Park owned by the Hayward Area Recreation and Park District (HARD) (Assessor's Parcel Number 431-0020-001-04), vacant property (431-0020-002-04) and a portion of Burbank Street owned by the City of Hayward;
- Abandonment of City of Hayward right-of-way (Burbank Street) and acquisition of property for construction of a new street;
- Deconstruction of existing school structures;
- Construction of a new two-story Burbank School (Kindergarten through sixth grade) to accommodate a maximum of 850 students, with an optimal capacity of 650 to 750 students, consisting of core services (administrative offices, library, multi-use/gymnasium, child care room, storage, restrooms), 39 classrooms, a lunch court, playground, hard-surface play area, and several parking lots to accommodate 71 vehicles. The proposed school building contains 80,117 square feet. The primary access to the school would be from a newly created street. A 4- to 5-foot-high chain-link fence would be installed along the perimeter of the main school property, and trees would be planted along the fence to provide visual screening.

- Reconfiguration, enhancement of Cannery Park in association with a new Burbank School, including additional restrooms, lighted ball fields, a new plaza, and an expanded parking area.
- Reconfiguration of three concrete lined segments of Sulfur Creek (Flood Control Line 2K) into adequately sized concrete box culverts or new open channel.
- Agreement among the City of Hayward, the City of Hayward Redevelopment Agency, the Hayward Unified School District, the Hayward Area Park and Recreation District describing their roles and responsibilities relating to the construction of a new school, expanded and improved park, deconstruction of the existing school and related property exchanges.

II. *FINDING PROJECT WILL NOT SIGNIFICANTLY AFFECT ENVIRONMENT:*

The proposed project will have no significant effect on the area's resources, cumulative or otherwise.

III. *FINDINGS SUPPORTING DECLARATION:*

1. The project application has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and an Initial Study Environmental Checklist Form has been completed for the proposed project. The Initial Study has determined that the proposed project could not result in significant effects on the environment.
2. The school/park project is an implementation of a locally adopted "Hayward Cannery Area Design Plan," for which an environmental impact report was adopted in 2001. The report concludes that there are no significant and unavoidable environmental impacts associated with the Design Plan.
3. The proposed school would be a significant visual improvement to the area.
4. There are no agricultural resources that are part of the project site and the site is not officially mapped as farmland by the State of California Department of Conservation.
5. Mitigation measures during construction will be employed to reduce potential air quality impacts to less-than-significant levels.
6. There do not appear to be any biological resources present in the project area that would significantly constrain the proposed project. No sensitive habitat communities (i.e., riparian, northern coastal salt marsh, woodland, etc.) were identified during the reconnaissance of the project area.
7. Approximately 478 feet of concrete lined channel (Sulfur Creek) is proposed to be enclosed into a box culvert. Compensating factors will include improvement of approximately 1,420 linear feet of Sulfur Creek downstream; restoring approximately 60

feet of an existing concrete-lined channel to its natural state; restoring to its natural state approximately 58 feet of Sulphur Creek, which is now in a box culvert at the western portion of the project site close to the railroad right-of-way; and the elimination of a significant level of toxic chemicals from the area will result in an overall enhancement of the flow of waters to the San Francisco Bay.

8. There are no known historical resources as defined in 15064.5 within the boundaries of the project.
9. The Initial Study finds that there is a moderate to high potential for localized liquefaction during a major earthquake. Liquefaction-induced settlements on the order of 1 to 1 ½ inch could occur in localized areas across the site during strong seismic shaking. The design of the school structures includes mitigation measures to the extent that there would be a less-than-significant impact due to seismic events or liquefaction.
10. Utilities of adequate capacity are present or will be constructed to serve the project.
11. Nearby railroad operations do not pose a significant level of risk at the project site.
12. For construction of a public school, the California State Department of Education requires submittal of Phase I report to the Department of Toxic Substance Control (DTSC) for their review. If lead-based paint and/or PCBs are the only DTSC identified issues requiring further investigation, the Hayward Unified School District (HUSD) may seek California Department of Education final approvals prior to completing the site investigation and/or cleanup. If it is determined that further investigation is necessary (e.g., other than the substance mentioned above), then a Preliminary Endangerment Assessment (PEA) is required. HUSD has entered into an Environmental Oversight Agreement for DTSC to oversee the preparation of a PEA. With these procedures in place, the project would not result in a significant hazard to students, faculty and staff.
13. Since testing has revealed that hazardous materials other than lead-based paint and PCBs are present in the site, HUSD has entered into an Environmental Oversight Agreement for DTSC to oversee the preparation of a PEA. Implementation of mitigation measures developed under this procedure will reduce impacts to a level of insignificance.
14. A natural gas pipeline is being relocated along B Street within 1,500 feet of the project site. Mitigation measures have been identified that would result in the potential impacts of the pipeline being at a less-than-significant level.
15. The Caltrans Division of Aeronautics conducted an investigation of the potential impact of the proximity of the airport to the school. Their conclusion is that their investigation did not reveal any condition that would create an undue hazard.
16. The project is in an urbanized area and will not significantly alter the existing drainage pattern and the amount of surface runoff is not expected to increase over that which presently occurs, particularly since the site is primarily covered with landscaping and is therefore permeable.

17. The project site is not within a 100-year flood hazard area.
18. The location of the project to the east of the railroad right-of-way will not result in exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies.
19. Construction of the project may subject surrounding residents to temporary noise elevations and ground vibration. Mitigation measures have been identified that would likely reduce construction equipment noise to a less than significant level.
20. The number of peak hour trips at major project intersections would not exceed local (City of Hayward) traffic operation standards.
21. Pedestrian routes to and from the School allow for adequate accessibility to the nearby neighborhood. Street crossings are located at stop-controlled intersections or at properly signed, specially delineated, and well-lit non-controlled locations. Incorporation of mitigated measures identified in the Initial Study will reduce impacts to a less than significant level.
22. Deconstruction of existing structures requires permits from the City of Hayward and adherence to standards for disposal and re-use that mitigate potential significant impacts of the process.

IV. PERSON WHO PREPARED INITIAL STUDY:

Dr. Barry Schimmel, Supervisor of Initial Study Preparation

Dated*:  4-25-2006

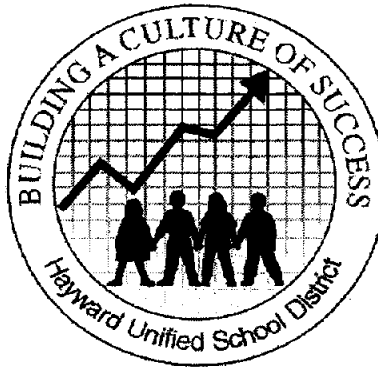
V. COPY OF INITIAL STUDY IS ATTACHED

For additional information, please contact the Hayward Unified School District Administrative Offices, 24411 Amador Street, Hayward, CA, (510) 784-2680

DISTRIBUTION/POSTING

- Provide copies to all responsible agencies.
- Provide copies to all organizations and individuals requesting it in writing.
- Reference in all public hearing notices to be distributed 30 days in advance of initial public hearing and/or published once in Daily Review 30 days prior to hearing.
- Maintain in project file.
- Post immediately upon receipt on the bulletin board in the Administrative Offices of the Hayward Unified School District, and do not remove until the date after the public hearing.

Amended April 20, 2006



HAYWARD UNIFIED SCHOOL DISTRICT

MITIGATION MONITORING PROGRAM

DESCRIPTION OF PROJECT

- Reconfiguration of the property boundaries of the Burbank School (6.36 acres) operated by Hayward Unified School District and Cannery Park, owned and operated by the Hayward Area Recreation and Park District (7.4 acres), resulting in approximately 14.91 acres devoted to the primary school site and the shared park/school recreation area, on lands consisting of a portion of the existing Burbank School owned by the Hayward Unified School District (HUSD) (Assessor's Parcel Number 431-0024-001-00); seven residential parcels (431-0024-003-00 through -009-00) and portions of two industrial properties (portions of 431-0024-010-08, 431-0020-001-09 and 431-0020-003-03) owned or to be acquired by the Redevelopment Agency of the City of Hayward, the existing Cannery Park owned by the Hayward Area Recreation and Park District (HARD) (Assessor's Parcel Number 431-0020-001-04), vacant property (431-0020-002-04) and a portion of Burbank Street owned by the City of Hayward;
- Abandonment of City of Hayward right-of-way (Burbank Street and C Street) and acquisition of property for construction of a new street;
- Deconstruction of existing school structures;
- Construction of a new two-story Burbank School (Kindergarten through sixth grade) to accommodate a maximum of 850 students, with an optimal capacity of 650 to 750 students, consisting of core services (administrative offices, library, multi-use/gymnasium, child care room, storage, restrooms), 39 classrooms, a lunch court, playground, hard-surface play area, and two parking lots to accommodate 71 vehicles. The proposed school building contains 80,117 square feet. The primary access to the school would be from a newly created street. A 4- to 5-foot-high fence would be installed along the

perimeter of the main school property, and trees would be planted along the fence to provide visual screening.

- Reconfiguration, enhancement of Cannery Park in association with a new Burbank School, including additional restrooms, lighted ball fields, a new plaza, and an expanded parking area.
- Reconfiguration of three concrete lined segments of Sulfur Creek (Flood Control Line 2K) into adequately sized concrete box culverts or new open channel.
- Agreement among the City of Hayward, the City of Hayward Redevelopment Agency, the Hayward Unified School District, the Hayward Area Park and Recreation District describing their roles and responsibilities relating to the construction of a new school, expanded and improved park, deconstruction of the existing school and related property exchanges.

I. AESTHETICS: No mitigation required.

Comments: The project involves replacing unattractive buildings with a new school; new fencing and landscaping will be installed. No mitigation measures are necessary with respect to aesthetic issues. As part of the project, new lights will be installed to illuminate the play fields in the park area; however, the amount of lighting expected to be shed onto nearby properties would be at a less than significant level and no mitigation measure with respect to lighting or glare is necessary.

II. AGRICULTURAL RESOURCES: No mitigation required.

Comment: There are no agricultural resources that would be impacted by the project.

III. AIR QUALITY

Mitigation Measure: In order to reduce intermittent air pollutants during the construction phase, dust control measures will be implemented, including watering of the site, paving or applying soil stabilizers, frequent sweeping of nearby streets and paved areas and hydro-seeding graded areas.

Implementation of this mitigation measure will reduce air quality impacts to a level of insignificance.

Implementation Responsibility: City of Hayward

Verification Responsibility: City of Hayward Public Works Department, Engineering Division

Monitoring Schedule During Construction/Implementation: On-going during construction; completion at occupancy

IV. BIOLOGICAL RESOURCES

IV. 1. Mitigation Measure: A portion of Sulphur Creek is located along the southerly boundary of the proposed school/park site as well as in the southwestern portion of the site. Much of the creek is in a culvert underground and will remain so. Other portions totaling 478 linear feet lie within an open concrete lined channel. The project involves placing the open portions of the Creek within a box culvert underground. There do not appear to be any biological resources present in the project area that would be adversely impacted by the project. In order to mitigate placing the concrete-lined channel in a boxed culvert, 60 feet of existing concrete lined channel will be restored to its natural state and 58 feet of Sulphur Creek which is now in a box culvert at the western portion of the project site close to the railroad right-of-way, will be restored to its natural condition. This is in addition to improving 1,423 feet of Sulphur Creek at the Hayward Airport.

Implementation Responsibility: City of Hayward

Verification Responsibility: State of California Regional Water Quality Control Board

Monitoring Schedule During Plan Review: N/A

Monitoring Schedule During Construction/Implementation: On-going during construction

IV. 2. Mitigation Measure: A mature California Bay tree is located on a portion of the project site where the school building is proposed to be situated. It is not feasible to move the Bay tree, which has a poor structure. The project incorporates an attractive landscape design, with numerous trees and plantings that will compensate for the loss of the Bay tree.

Implementation Responsibility: City of Hayward Landscape Architect

Verification Responsibility: City of Hayward Landscape Architect

Monitoring Schedule During Plan Review: Prior to Advertisement

Monitoring Schedule During Construction/Implementation: On-going during construction; completion at occupancy.

V. CULTURAL RESOURCES: No mitigation necessary.

Comment: In the event that archaeological resources, prehistoric or historic artifacts are discovered during construction or excavation, the following procedures shall be followed: construction and/or excavation activities shall cease immediately and the Planning Division of the City of Hayward shall be notified. A qualified archaeologist shall be consulted to determine whether any such materials are significant prior to resuming groundbreaking construction activities. Standardized procedures for evaluation of accidental finds and discovery of human remains shall be followed as prescribed in Sections 15064.f and 151236.4 of the California Environmental Quality Act.

Implementation Responsibility: Contractor

Verification Responsibility: City of Hayward Planning Division

Monitoring Schedule During Plan Review: N/A

Monitoring Schedule During Construction/Implementation: Ongoing during construction

VI. GEOLOGY/SOILS

Mitigation Measures: Strong shaking during an earthquake could result in damage to buildings, roads, utility lines and other structures with associated risk to students, employees, and visitors to the area. There is also a moderate to high potential for localized liquefaction during a major earthquake. However, mitigation measures relative to liquefaction have been incorporated into the project, so no further mitigation is necessary. To reduce the impacts related to strong shaking to a potentially less-than-significant level, structures have been designed to accommodate the load of the buildings and in recognition of the constraints of the soils. No further mitigation measures are necessary.

Implementation Responsibility: City of Hayward/Office of State Architect

Verification Responsibility: City of Hayward/Office of State Architect

Monitoring Schedule During Plan Review: Office of State Architect prior to Advertisement

Monitoring Schedule During Construction/Implementation: On-going during construction and prior to occupancy

VII. HAZARDS & HAZARDOUS MATERIALS

VII. 1. Mitigation Measures: Union Pacific Railroad right-of-way is located west of the proposed school/recreation area site. Nearby railroad operations are not anticipated to pose a significant level of risk at the proposed Burbank Elementary School/play field site. Safety measures were identified to minimize any potential risks, including exploring the feasibility of installing barriers to restrict access to the railroad easement in the area of the planned future parking lot west of the school site, posting "no trespassing" signs and signs warning of railroad trespassing dangers, implementation of a rail safety awareness program at the school, and the development of evacuation routes away from the railroad easement.

Implementation Responsibility: Hayward Unified School District/Hayward Area Recreation and Parks District

Verification Responsibility: Hayward Unified School District

Monitoring Schedule During Plan Review: Hayward Unified School District

Monitoring Schedule During Construction/Implementation: Prior to occupancy of school.

VII. 2. Mitigation Measures: From 1896 to 1980 the southwest half of the project site was used by a cannery where hazardous materials were known to have been used. Prior to acquiring a school site or engaging in a construction project, school districts must conduct a Phase I environmental assessment. The State Department of Toxic Substance Control (DTSC) is the regulatory oversight authority for the environmental review process for the proposed acquisition and/or construction of school properties. Based on information gathered in the Phase I, DTSC concluded that a Preliminary Endangerment Assessment (PEA) should be conducted. Since testing during the PEA process has revealed that hazardous materials other than lead-based paint and PCB's are present in the site, HUD and the City of Hayward Redevelopment Agency entered into a Voluntary Clean-up Agreement in which the DTSC will provide regulatory oversight of the preparation of the PEA and Risk Assessment. Since the PEA revealed areas of the project site that require clean up, a Removal Action Workplan (RAW) will be prepared and implemented with oversight by DTSC. Implementation of the mitigation measures developed under these procedures will reduce the impacts to a level of insignificance.

Implementation Responsibility: Hayward Unified School District/City of Hayward

Verification Responsibility: State Department of Toxic Substance Control

Monitoring Schedule During Plan Review: State Department of Toxic Substance Control

Monitoring Schedule During Construction/Implementation: City of Hayward Prior to start of school construction

VII. 3. Mitigation Measures: A 160-pound-per-square-inch gauge, 12.75-inch-diameter natural gas pipeline is being relocated along B Street within 1,500 feet of the project site. Because the pipeline was found to pose potential significant societal risks, accidental release risk mitigation measures were developed and evaluated and mitigation measures were identified. An emergency preparedness plan will be prepared by the Hayward Unified School District that includes evacuation procedures for students, staff and faculty should an accidental release occur. A second mitigation measure involves PG&E, the natural gas pipeline owner, who has agreed to use a seamless, 0.375-inch-thick walled pipeline with a specified yield minimum stress of 35,000 pounds per square inch that yields a SYMS ratio of 7.7 percent, well below the office of pipeline safety requirements of 30 percent. Upon implementation of both mitigation measures, the potential societal risk associated with a rupture jet fire and rupture explosion would be insignificant.

Implementation Responsibility: Hayward Unified School District/City of Hayward/PG&E

Verification Responsibility: Hayward Unified School District and the City of Hayward Public Works Department, Engineering Division

Monitoring Schedule During Plan Review: City of Hayward

Monitoring Schedule During Construction/Implementation: City of Hayward prior to occupancy of school

VIII. HYDROLOGY / WATER QUALITY: No mitigation required

IX. LAND USE / PLANNING: No mitigation required

Comment: The school/park project is an implementation of a locally adopted "Hayward Cannery Area Design Plan," for which a program environmental impact report was adopted in 2001. The report concludes that there are no significant and unavoidable environmental impacts associated with the Design Plan.

X. MINERAL RESOURCE: No mitigation required

Comment: The project area is in a developed area where there are no known mineral resources of value to the region and the residents of the state.

XI. NOISE

Comment: The school buildings are proposed to be constructed approximately 750 feet from the centerline of the Union Pacific Railroad tracks. The school recreation yard, at its closest point, is approximately 180 feet from the mid-point of the railroad tracks. The location of the project to the east of the railroad right-of-way will not result in exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies

XI. 1. Mitigation Measures: Construction shall require that interior noise shall be 45dBA and that federal vibration standards shall be met. Construction of the project may subject surrounding residents to temporary noise elevations and ground vibration. Maximum noise level (dB at 50 feet) for typical construction equipment ranges from 85 dB for a backhoe and pneumatic tool to 87 dB for bulldozers, and 88 dB for heavy trucks. An accurate prediction of the noise levels that would occur near a construction site is difficult because the noise generation depends on the number, type and amount of time that each piece of construction equipment is operating. It is likely that the hourly average construction noise level would occur intermittently at the residential properties and the noise levels would therefore substantially exceed the 60 dBA residential threshold. Mitigation measures outlined in the Environmental Checklist, including limiting construction hours and requiring equipment to be muffled, will be imposed.

Implementation Responsibility: City of Hayward

Verification Responsibility: City of Hayward Public Works Department, Engineering Division

Monitoring Schedule During Plan Review: City of Hayward Building Division

Monitoring Schedule During Construction/Implementation: Construction and prior to issuance of certificate of occupancy

XI.2. Mitigation Measure: The project site is located approximately one nautical mile from the Hayward Executive Airport, a general aviation air terminal. A Caltrans Division of Aeronautics investigation concluded that the school site may experience frequent aircraft over-flight and that the school district should incorporate sound attenuation features into the design and construction of the school facility. The California Department of Education, in a letter dated December 13, 2004, concurred with the results of the Caltrans

investigation. The design of the school structure incorporates noise attenuation measures to the extent that there would be no significant noise impacts associated with aircraft flyovers.

Implementation Responsibility: Department of State Architect/City of Hayward Public Works Department

Verification Responsibility: City of Hayward

Monitoring Schedule During Plan Review: City of Hayward

Monitoring Schedule During Construction/Implementation: Construction and prior to issuance of certificate of occupancy

XI. POPULATION / HOUSING: No mitigation required

Comment: The project will not induce a substantial population growth; rather, it is intended to accommodate planned residential growth in the area.

XII. PUBLIC SERVICES: *No mitigation required.*

Comment: The program Environmental Impact Report prepared for the "Hayward Cannery Area Design Plan" approved in 2001 addresses the issue of public services. There are adequate public services available to serve the project.

XIII. RECREATION – No mitigation required

Comment: The project itself will not increase the use of neighborhood or regional parks to the extent that there would be a substantial physical deterioration due to the project. Although the project will likely result in increased use of existing facilities, the project provides improvement and expansion of existing facilities and greater capacity for maintenance of these facilities in that maintenance will be shared by HARD and HUSD. The expansion of the park was included in the Program Environmental Impact Report prepared for the City of Hayward Cannery Area Design Plan.

XIV. TRANSPORTATION/TRAFFIC: No mitigation required

Comment: The program Environmental Impact Report prepared for the "Hayward Cannery Area Design Plan" approved in 2001 addresses the issue of traffic. Implementation of the school/park project will likely result in a net increase in the total number of peak hour trips by 354, below the standard that is considered significant.

The current configuration of the Burbank Elementary School does not have a drop-off area; however, a drop-off area is provided in the design of the new school

which is expected to relieve traffic impacts on the local streets. The school area signing and striping plans were reviewed for conformance to the "School Area Pedestrian Safety" section of the 2003 Manual on Uniform Traffic Control Devices and the 2003 Manual on Uniform Traffic Control Devices, California Supplement. Pedestrian routes to and from the School allow for adequate accessibility to the nearby neighborhood. Street crossings are located at stop-controlled intersections or at properly signed, specially designated locations. Incorporation of recommended mitigated measures will reduce impacts to a less than significant level.

In addition to the provision of a parking area within the school property proper, additional parking is available within the public right-of-way adjacent to the school. The site is also in proximity to public transportation facilities, including the Bay Area Rapid Transit District Hayward station, the Amtrak station, the Greyhound station, and the Alameda-Contra Costa Transit District bus stops.

XV. UTILITIES / SERVICE SYSTEMS: No mitigation required

Comment: The size and capacity of sewer facilities within the project area is generally adequate to support the project. The present water distribution system provides sufficient water supply and pressure to serve existing needs with reserve capacity to accommodate peak demand, fire protection and other emergencies. Emergency water supply is available from Alameda County Water District and from East Bay Municipal Utility District through emergency inter-ties with each agency

The program Environmental Impact Report prepared for the "Hayward Cannery Area Design Plan" approved in 2001 addresses the issue of solid waste disposal and determined that additional quantities of solid waste, including construction debris, could be accommodated at the nearest landfill. Deconstruction of existing structures requires permits from the City of Hayward and adherence to standards for disposal and re-use that mitigate potential significant impacts of the process.

DRAFT *1/11/01*

REDEVELOPMENT AGENCY OF THE CITY OF HAYWARD

RESOLUTION NO. RA_____

Introduced by Agency Member _____

**RESOLUTION APPROVING A PUBLIC FACILITIES
DEVELOPMENT AND PROPERTY EXCHANGE
AGREEMENT AND MAKING FINDINGS PURSUANT TO
HEALTH AND SAFETY CODE SECTION 33445**

WHEREAS, the City Council of the City of Hayward ("City") has adopted a redevelopment plan for the Downtown Hayward Redevelopment Project ("Redevelopment Project Area") by Ordinance No. 75-029 C.S., as amended, which is being implemented by Redevelopment Agency of the City of Hayward ("Agency"); and

WHEREAS, the Hayward Cannery Area Design Plan ("Design Plan") was adopted by the City on July 24, 2001, in order to provide for the reuse of the area subject to the Plan ("Design Plan Area") with a mix of residential, commercial and institutional uses; and

WHEREAS, the Burbank Elementary School (the "Existing Burbank School Site") is located with both the Redevelopment Project Area and the Design Plan Area and adjacent to the existing Cannery Park operated by the Hayward Area Recreation and Park District; and

WHEREAS, the City, the Agency, the Hayward Unified School District ("School District") and HARD have prepared a proposed Public Facilities Development and Property Exchange Agreement in the form attached hereto as Exhibit A (the "Agreement"), pursuant to which: (1) the City and the Agency will acquire property for, design and construct a replacement for the Existing Burbank School (the "New Burbank School") which, upon completion fo the New Burbank School, will be exchanged for the Existing Burbank School, and (2) HARD will improve and the Agency will pay for the improvement of Cannery Park in connection with the development of the New Burbank School; and

WHEREAS, in connection with the approval of the Agreement, and initial study and mitigated negative declaration ("Mitigated Negative Declaration") has been prepared by the School District pursuant to the California Environmental Quality Act ("CEQA") (Public Resources Code Section 21000 et seq.), including a mitigation monitoring plan, and notice of intent to adopt the Mitigated Negative Declaration has been given as required by law. A copy of the Mitigated Negative Declaration is attached hereto as Exhibit B. The Agency has considered the Mitigated Negative Declaration; and

WHEREAS, Health and Safety Code Sections 33445 and 33679 authorize the Agency to pay the cost of the land for and the cost of constructing the New Burbank School following a public hearing and upon the approval of the City and the School District; and

WHEREAS, a report has been prepared pursuant to Health and Safety Code Section 33679 (the "Report") and made available for public inspection which contains a summary including an estimate of the cost of the Agreement to the Agency, the facts supporting the determinations required to be made pursuant to Health and Safety Code Section 33445 and the redevelopment purpose for which funds will be expended pursuant to the Agreement; and

WHEREAS, on May 23, 2006, the Agency held a duly noticed public hearing on the proposed Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Redevelopment Agency of the City of Hayward as follows:

1. On the basis of the whole record before it, the Agency hereby finds that there is no substantial evidence that the project as set forth in the Agreement will have significant effect on the environment.
2. On the basis of the whole record before it, including, without limitation, the Report, the Agency further finds and determines as follows:
 - a. That the construction of the New Burbank School will be of benefit to the Redevelopment Project Area and the immediate neighborhood in which the Redevelopment Project Area is located.
 - b. That no other reasonable means of financing the New Burbank School is available to the community.
 - c. That the payment of funds pursuant to the Agreement for the acquisition of land and cost of construction of the New Burbank School will assist in the elimination of one or more blighting conditions within the Redevelopment Project Area and is consistent with the Agency's implementation plan adopted pursuant to Health and Safety Code Section 33490.
3. The Agency hereby approves the Agreement and authorizes its execution by the Executive Director, subject to such minor, non-substantive changes as may be approved by Agency Counsel. The Agency further authorizes the Executive Director to take such other and further actions, including, without limitation, the execution of any documents necessary to carry out the provisions of the Agreement on behalf of the Agency.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2006

ADOPTED BY THE FOLLOWING VOTE:

AYES: AGENCY MEMBERS:

CHAIR:

NOES: AGENCY MEMBERS:

ABSTAIN: AGENCY MEMBERS:

ABSENT: AGENCY MEMBERS:

ATTEST: _____
Secretary of the Redevelopment Agency
of the City of Hayward

APPROVED AS TO FORM:

General Counsel

EXHIBIT A

**Public Facilities Development and
Property Exchange Agreement**

**The Public Facilities Development and
Property Exchange Agreement is
On File in the City Clerk's Office**



HAYWARD UNIFIED SCHOOL DISTRICT

MITIGATED NEGATIVE DECLARATION

Notice is hereby given that the Hayward Unified School District finds that no significant effect on the environment as prescribed by the California Environmental Quality Act of 1970, as amended will occur for the following proposed project:

I. PROJECT DESCRIPTION:

- Reconfiguration of the property boundaries of the Burbank School (6.36 acres) operated by Hayward Unified School District and Cannery Park, owned and operated by the Hayward Area Recreation and Park District (7.4 acres), resulting in approximately 14.91 acres devoted to the primary school site and the shared park/school recreation area, on lands consisting of a portion of the existing Burbank School owned by the Hayward Unified School District (HUSD) (Assessor's Parcel Number 431-0024-001-00); seven residential parcels (431-0024-003-00 through -009-00) and portions of two industrial properties (portions of 431-0024-010-08, 431-0020-001-09 and 431-0020-003-03) owned or to be acquired by the Redevelopment Agency of the City of Hayward, the existing Cannery Park owned by the Hayward Area Recreation and Park District (HARD) (Assessor's Parcel Number 431-0020-001-04), vacant property (431-0020-002-04) and a portion of Burbank Street owned by the City of Hayward;
- Abandonment of City of Hayward right-of-way (Burbank Street) and acquisition of property for construction of a new street;
- Deconstruction of existing school structures;
- Construction of a new two-story Burbank School (Kindergarten through sixth grade) to accommodate a maximum of 850 students, with an optimal capacity of 650 to 750 students, consisting of core services (administrative offices, library, multi-use/gymnasium, child care room, storage, restrooms), 39 classrooms, a lunch court, playground, hard-surface play area, and several parking lots to accommodate 71 vehicles. The proposed school building contains 80,117 square feet. The primary access to the school would be from a newly created street. A 4- to 5-foot-high chain-link fence would be installed along the perimeter of the main school property, and trees would be planted along the fence to provide visual screening.

- Reconfiguration, enhancement of Cannery Park in association with a new Burbank School, including additional restrooms, lighted ball fields, a new plaza, and an expanded parking area.
- Reconfiguration of three concrete lined segments of Sulfur Creek (Flood Control Line 2K) into adequately sized concrete box culverts or new open channel.
- Agreement among the City of Hayward, the City of Hayward Redevelopment Agency, the Hayward Unified School District, the Hayward Area Park and Recreation District describing their roles and responsibilities relating to the construction of a new school, expanded and improved park, deconstruction of the existing school and related property exchanges.

II. FINDING PROJECT WILL NOT SIGNIFICANTLY AFFECT ENVIRONMENT:

The proposed project will have no significant effect on the area's resources, cumulative or otherwise.

III. FINDINGS SUPPORTING DECLARATION:

1. The project application has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and an Initial Study Environmental Checklist Form has been completed for the proposed project. The Initial Study has determined that the proposed project could not result in significant effects on the environment.
2. The school/park project is an implementation of a locally adopted "Hayward Cannery Area Design Plan," for which an environmental impact report was adopted in 2001. The report concludes that there are no significant and unavoidable environmental impacts associated with the Design Plan.
3. The proposed school would be a significant visual improvement to the area.
4. There are no agricultural resources that are part of the project site and the site is not officially mapped as farmland by the State of California Department of Conservation.
5. Mitigation measures during construction will be employed to reduce potential air quality impacts to less-than-significant levels.
6. There do not appear to be any biological resources present in the project area that would significantly constrain the proposed project. No sensitive habitat communities (i.e., riparian, northern coastal salt marsh, woodland, etc.) were identified during the reconnaissance of the project area.
7. Approximately 478 feet of concrete lined channel (Sulfur Creek) is proposed to be enclosed into a box culvert. Compensating factors will include improvement of approximately 1,420 linear feet of Sulfur Creek downstream; restoring approximately 60

feet of an existing concrete-lined channel to its natural state; restoring to its natural state approximately 58 feet of Sulphur Creek, which is now in a box culvert at the western portion of the project site close to the railroad right-of-way; and the elimination of a significant level of toxic chemicals from the area will result in an overall enhancement of the flow of waters to the San Francisco Bay.

8. There are no known historical resources as defined in 15064.5 within the boundaries of the project.
9. The Initial Study finds that there is a moderate to high potential for localized liquefaction during a major earthquake. Liquefaction-induced settlements on the order of 1 to 1 ½ inch could occur in localized areas across the site during strong seismic shaking. The design of the school structures includes mitigation measures to the extent that there would be a less-than-significant impact due to seismic events or liquefaction.
10. Utilities of adequate capacity are present or will be constructed to serve the project.
11. Nearby railroad operations do not pose a significant level of risk at the project site.
12. For construction of a public school, the California State Department of Education requires submittal of Phase I report to the Department of Toxic Substance Control (DTSC) for their review. If lead-based paint and/or PCBs are the only DTSC identified issues requiring further investigation, the Hayward Unified School District (HUSD) may seek California Department of Education final approvals prior to completing the site investigation and/or cleanup. If it is determined that further investigation is necessary (e.g., other than the substance mentioned above), then a Preliminary Endangerment Assessment (PEA) is required. HUSD has entered into an Environmental Oversight Agreement for DTSC to oversee the preparation of a PEA. With these procedures in place, the project would not result in a significant hazard to students, faculty and staff.
13. Since testing has revealed that hazardous materials other than lead-based paint and PCBs are present in the site, HUSD has entered into an Environmental Oversight Agreement for DTSC to oversee the preparation of a PEA. Implementation of mitigation measures developed under this procedure will reduce impacts to a level of insignificance.
14. A natural gas pipeline is being relocated along B Street within 1,500 feet of the project site. Mitigation measures have been identified that would result in the potential impacts of the pipeline being at a less-than-significant level.
15. The Caltrans Division of Aeronautics conducted an investigation of the potential impact of the proximity of the airport to the school. Their conclusion is that their investigation did not reveal any condition that would create an undue hazard.
16. The project is in an urbanized area and will not significantly alter the existing drainage pattern and the amount of surface runoff is not expected to increase over that which presently occurs, particularly since the site is primarily covered with landscaping and is therefore permeable.

17. The project site is not within a 100-year flood hazard area.
18. The location of the project to the east of the railroad right-of-way will not result in exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies.
19. Construction of the project may subject surrounding residents to temporary noise elevations and ground vibration. Mitigation measures have been identified that would likely reduce construction equipment noise to a less than significant level.
20. The number of peak hour trips at major project intersections would not exceed local (City of Hayward) traffic operation standards.
21. Pedestrian routes to and from the School allow for adequate accessibility to the nearby neighborhood. Street crossings are located at stop-controlled intersections or at properly signed, specially delineated, and well-lit non-controlled locations. Incorporation of mitigated measures identified in the Initial Study will reduce impacts to a less than significant level.
22. Deconstruction of existing structures requires permits from the City of Hayward and adherence to standards for disposal and re-use that mitigate potential significant impacts of the process.

IV. PERSON WHO PREPARED INITIAL STUDY:

Dr. Barry Schimmel, Supervisor of Initial Study Preparation

Dated*:  4-25-2006

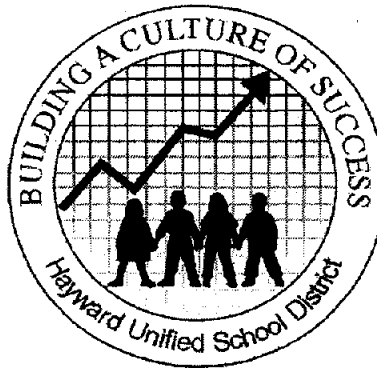
V. COPY OF INITIAL STUDY IS ATTACHED

For additional information, please contact the Hayward Unified School District Administrative Offices, 24411 Amador Street, Hayward, CA, (510) 784-2680

DISTRIBUTION/POSTING

- Provide copies to all responsible agencies.
- Provide copies to all organizations and individuals requesting it in writing.
- Reference in all public hearing notices to be distributed 30 days in advance of initial public hearing and/or published once in Daily Review 30 days prior to hearing.
- Maintain in project file.
- Post immediately upon receipt on the bulletin board in the Administrative Offices of the Hayward Unified School District, and do not remove until the date after the public hearing.

Amended April 20, 2006



HAYWARD UNIFIED SCHOOL DISTRICT

MITIGATION MONITORING PROGRAM

DESCRIPTION OF PROJECT

- Reconfiguration of the property boundaries of the Burbank School (6.36 acres) operated by Hayward Unified School District and Cannery Park, owned and operated by the Hayward Area Recreation and Park District (7.4 acres), resulting in approximately 14.91 acres devoted to the primary school site and the shared park/school recreation area, on lands consisting of a portion of the existing Burbank School owned by the Hayward Unified School District (HUSD) (Assessor's Parcel Number 431-0024-001-00); seven residential parcels (431-0024-003-00 through -009-00) and portions of two industrial properties (portions of 431-0024-010-08, 431-0020-001-09 and 431-0020-003-03) owned or to be acquired by the Redevelopment Agency of the City of Hayward, the existing Cannery Park owned by the Hayward Area Recreation and Park District (HARD) (Assessor's Parcel Number 431-0020-001-04), vacant property (431-0020-002-04) and a portion of Burbank Street owned by the City of Hayward;
- Abandonment of City of Hayward right-of-way (Burbank Street and C Street) and acquisition of property for construction of a new street;
- Deconstruction of existing school structures;
- Construction of a new two-story Burbank School (Kindergarten through sixth grade) to accommodate a maximum of 850 students, with an optimal capacity of 650 to 750 students, consisting of core services (administrative offices, library, multi-use/gymnasium, child care room, storage, restrooms), 39 classrooms, a lunch court, playground, hard-surface play area, and two parking lots to accommodate 71 vehicles. The proposed school building contains 80,117 square feet. The primary access to the school would be from a newly created street. A 4- to 5-foot-high fence would be installed along the

perimeter of the main school property, and trees would be planted along the fence to provide visual screening.

- Reconfiguration, enhancement of Cannery Park in association with a new Burbank School, including additional restrooms, lighted ball fields, a new plaza, and an expanded parking area.
- Reconfiguration of three concrete lined segments of Sulfur Creek (Flood Control Line 2K) into adequately sized concrete box culverts or new open channel.
- Agreement among the City of Hayward, the City of Hayward Redevelopment Agency, the Hayward Unified School District, the Hayward Area Park and Recreation District describing their roles and responsibilities relating to the construction of a new school, expanded and improved park, deconstruction of the existing school and related property exchanges.

I. AESTHETICS: No mitigation required.

Comments: The project involves replacing unattractive buildings with a new school; new fencing and landscaping will be installed. No mitigation measures are necessary with respect to aesthetic issues. As part of the project, new lights will be installed to illuminate the play fields in the park area; however, the amount of lighting expected to be shed onto nearby properties would be at a less than significant level and no mitigation measure with respect to lighting or glare is necessary.

II. AGRICULTURAL RESOURCES: No mitigation required.

Comment: There are no agricultural resources that would be impacted by the project.

III. AIR QUALITY

Mitigation Measure: In order to reduce intermittent air pollutants during the construction phase, dust control measures will be implemented, including watering of the site, paving or applying soil stabilizers, frequent sweeping of nearby streets and paved areas and hydro-seeding graded areas.

Implementation of this mitigation measure will reduce air quality impacts to a level of insignificance.

Implementation Responsibility: City of Hayward

Verification Responsibility: City of Hayward Public Works Department, Engineering Division

Monitoring Schedule During Construction/Implementation: On-going during construction; completion at occupancy

IV. BIOLOGICAL RESOURCES

IV. 1. Mitigation Measure: A portion of Sulphur Creek is located along the southerly boundary of the proposed school/park site as well as in the southwestern portion of the site. Much of the creek is in a culvert underground and will remain so. Other portions totaling 478 linear feet lie within an open concrete lined channel. The project involves placing the open portions of the Creek within a box culvert underground. There do not appear to be any biological resources present in the project area that would be adversely impacted by the project. In order to mitigate placing the concrete-lined channel in a boxed culvert, 60 feet of existing concrete lined channel will be restored to its natural state and 58 feet of Sulphur Creek which is now in a box culvert at the western portion of the project site close to the railroad right-of-way, will be restored to its natural condition. This is in addition to improving 1,423 feet of Sulphur Creek at the Hayward Airport.

Implementation Responsibility: City of Hayward

Verification Responsibility: State of California Regional Water Quality Control Board

Monitoring Schedule During Plan Review: N/A

Monitoring Schedule During Construction/Implementation: On-going during construction

IV. 2. Mitigation Measure: A mature California Bay tree is located on a portion of the project site where the school building is proposed to be situated. It is not feasible to move the Bay tree, which has a poor structure. The project incorporates an attractive landscape design, with numerous trees and plantings that will compensate for the loss of the Bay tree.

Implementation Responsibility: City of Hayward Landscape Architect

Verification Responsibility: City of Hayward Landscape Architect

Monitoring Schedule During Plan Review: Prior to Advertisement

Monitoring Schedule During Construction/Implementation: On-going during construction; completion at occupancy.

V. CULTURAL RESOURCES: No mitigation necessary.

Comment: In the event that archaeological resources, prehistoric or historic artifacts are discovered during construction or excavation, the following procedures shall be followed: construction and/or excavation activities shall cease immediately and the Planning Division of the City of Hayward shall be notified. A qualified archaeologist shall be consulted to determine whether any such materials are significant prior to resuming groundbreaking construction activities. Standardized procedures for evaluation of accidental finds and discovery of human remains shall be followed as prescribed in Sections 15064.f and 151236.4 of the California Environmental Quality Act.

Implementation Responsibility: Contractor

Verification Responsibility: City of Hayward Planning Division

Monitoring Schedule During Plan Review: N/A

Monitoring Schedule During Construction/Implementation: Ongoing during construction

VI. GEOLOGY/SOILS

Mitigation Measures: Strong shaking during an earthquake could result in damage to buildings, roads, utility lines and other structures with associated risk to students, employees, and visitors to the area. There is also a moderate to high potential for localized liquefaction during a major earthquake. However, mitigation measures relative to liquefaction have been incorporated into the project, so no further mitigation is necessary. To reduce the impacts related to strong shaking to a potentially less-than-significant level, structures have been designed to accommodate the load of the buildings and in recognition of the constraints of the soils. No further mitigation measures are necessary.

Implementation Responsibility: City of Hayward/Office of State Architect

Verification Responsibility: City of Hayward/Office of State Architect

Monitoring Schedule During Plan Review: Office of State Architect prior to Advertisement

Monitoring Schedule During Construction/Implementation: On-going during construction and prior to occupancy

VII. HAZARDS & HAZARDOUS MATERIALS

VII. 1. Mitigation Measures: Union Pacific Railroad right-of-way is located west of the proposed school/recreation area site. Nearby railroad operations are not anticipated to pose a significant level of risk at the proposed Burbank Elementary School/play field site. Safety measures were identified to minimize any potential risks, including exploring the feasibility of installing barriers to restrict access to the railroad easement in the area of the planned future parking lot west of the school site, posting "no trespassing" signs and signs warning of railroad trespassing dangers, implementation of a rail safety awareness program at the school, and the development of evacuation routes away from the railroad easement.

Implementation Responsibility: Hayward Unified School District/Hayward Area Recreation and Parks District

Verification Responsibility: Hayward Unified School District

Monitoring Schedule During Plan Review: Hayward Unified School District

Monitoring Schedule During Construction/Implementation: Prior to occupancy of school.

VII. 2. Mitigation Measures: From 1896 to 1980 the southwest half of the project site was used by a cannery where hazardous materials were known to have been used. Prior to acquiring a school site or engaging in a construction project, school districts must conduct a Phase I environmental assessment. The State Department of Toxic Substance Control (DTSC) is the regulatory oversight authority for the environmental review process for the proposed acquisition and/or construction of school properties. Based on information gathered in the Phase I, DTSC concluded that a Preliminary Endangerment Assessment (PEA) should be conducted. Since testing during the PEA process has revealed that hazardous materials other than lead-based paint and PCB's are present in the site, HUSD and the City of Hayward Redevelopment Agency entered into a Voluntary Clean-up Agreement in which the DTSC will provide regulatory oversight of the preparation of the PEA and Risk Assessment. Since the PEA revealed areas of the project site that require clean up, a Removal Action Workplan (RAW) will be prepared and implemented with oversight by DTSC. Implementation of the mitigation measures developed under these procedures will reduce the impacts to a level of insignificance.

Implementation Responsibility: Hayward Unified School District/City of Hayward

Verification Responsibility: State Department of Toxic Substance Control

Monitoring Schedule During Plan Review: State Department of Toxic Substance Control

Monitoring Schedule During Construction/Implementation: City of Hayward Prior to start of school construction

VII. 3. Mitigation Measures: A 160-pound-per-square-inch gauge, 12.75-inch-diameter natural gas pipeline is being relocated along B Street within 1,500 feet of the project site. Because the pipeline was found to pose potential significant societal risks, accidental release risk mitigation measures were developed and evaluated and mitigation measures were identified. An emergency preparedness plan will be prepared by the Hayward Unified School District that includes evacuation procedures for students, staff and faculty should an accidental release occur. A second mitigation measure involves PG&E, the natural gas pipeline owner, who has agreed to use a seamless, 0.375-inch-thick walled pipeline with a specified yield minimum stress of 35,000 pounds per square inch that yields a SYMS ratio of 7.7 percent, well below the office of pipeline safety requirements of 30 percent. Upon implementation of both mitigation measures, the potential societal risk associated with a rupture jet fire and rupture explosion would be insignificant.

Implementation Responsibility: Hayward Unified School District/City of Hayward/PG&E

Verification Responsibility: Hayward Unified School District and the City of Hayward Public Works Department, Engineering Division

Monitoring Schedule During Plan Review: City of Hayward

Monitoring Schedule During Construction/Implementation: City of Hayward prior to occupancy of school

VIII. HYDROLOGY / WATER QUALITY: No mitigation required

IX. LAND USE / PLANNING: No mitigation required

Comment: The school/park project is an implementation of a locally adopted "Hayward Cannery Area Design Plan," for which a program environmental impact report was adopted in 2001. The report concludes that there are no significant and unavoidable environmental impacts associated with the Design Plan.

X. MINERAL RESOURCE: No mitigation required

Comment: The project area is in a developed area where there are no known mineral resources of value to the region and the residents of the state.

XI. NOISE

Comment: The school buildings are proposed to be constructed approximately 750 feet from the centerline of the Union Pacific Railroad tracks. The school recreation yard, at its closest point, is approximately 180 feet from the mid-point of the railroad tracks. The location of the project to the east of the railroad right-of-way will not result in exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies

XI. 1. Mitigation Measures: Construction shall require that interior noise shall be 45dBA and that federal vibration standards shall be met. Construction of the project may subject surrounding residents to temporary noise elevations and ground vibration. Maximum noise level (dB at 50 feet) for typical construction equipment ranges from 85 dB for a backhoe and pneumatic tool to 87 dB for bulldozers, and 88 dB for heavy trucks. An accurate prediction of the noise levels that would occur near a construction site is difficult because the noise generation depends on the number, type and amount of time that each piece of construction equipment is operating. It is likely that the hourly average construction noise level would occur intermittently at the residential properties and the noise levels would therefore substantially exceed the 60 dBA residential threshold. Mitigation measures outlined in the Environmental Checklist, including limiting construction hours and requiring equipment to be muffled, will be imposed.

Implementation Responsibility: City of Hayward

Verification Responsibility: City of Hayward Public Works Department, Engineering Division

Monitoring Schedule During Plan Review: City of Hayward Building Division

Monitoring Schedule During Construction/Implementation: Construction and prior to issuance of certificate of occupancy

XI.2. Mitigation Measure: The project site is located approximately one nautical mile from the Hayward Executive Airport, a general aviation air terminal. A Caltrans Division of Aeronautics investigation concluded that the school site may experience frequent aircraft over-flight and that the school district should incorporate sound attenuation features into the design and construction of the school facility. The California Department of Education, in a letter dated December 13, 2004, concurred with the results of the Caltrans

investigation. The design of the school structure incorporates noise attenuation measures to the extent that there would be no significant noise impacts associated with aircraft flyovers.

Implementation Responsibility: Department of State Architect/City of Hayward Public Works Department

Verification Responsibility: City of Hayward

Monitoring Schedule During Plan Review: City of Hayward

Monitoring Schedule During Construction/Implementation: Construction and prior to issuance of certificate of occupancy

XI. POPULATION / HOUSING: No mitigation required

Comment: The project will not induce a substantial population growth; rather, it is intended to accommodate planned residential growth in the area.

XII. PUBLIC SERVICES: *No mitigation required.*

Comment: The program Environmental Impact Report prepared for the "Hayward Cannery Area Design Plan" approved in 2001 addresses the issue of public services. There are adequate public services available to serve the project.

XIII. RECREATION – No mitigation required

Comment: The project itself will not increase the use of neighborhood or regional parks to the extent that there would be a substantial physical deterioration due to the project. Although the project will likely result in increased use of existing facilities, the project provides improvement and expansion of existing facilities and greater capacity for maintenance of these facilities in that maintenance will be shared by HARD and HUSD. The expansion of the park was included in the Program Environmental Impact Report prepared for the City of Hayward Cannery Area Design Plan.

XIV. TRANSPORTATION/TRAFFIC: No mitigation required

Comment: The program Environmental Impact Report prepared for the "Hayward Cannery Area Design Plan" approved in 2001 addresses the issue of traffic. Implementation of the school/park project will likely result in a net increase in the total number of peak hour trips by 354, below the standard that is considered significant.

The current configuration of the Burbank Elementary School does not have a drop-off area; however, a drop-off area is provided in the design of the new school

which is expected to relieve traffic impacts on the local streets. The school area signing and striping plans were reviewed for conformance to the "School Area Pedestrian Safety" section of the 2003 Manual on Uniform Traffic Control Devices and the 2003 Manual on Uniform Traffic Control Devices, California Supplement. Pedestrian routes to and from the School allow for adequate accessibility to the nearby neighborhood. Street crossings are located at stop-controlled intersections or at properly signed, specially designated locations. Incorporation of recommended mitigated measures will reduce impacts to a less than significant level.

In addition to the provision of a parking area within the school property proper, additional parking is available within the public right-of-way adjacent to the school. The site is also in proximity to public transportation facilities, including the Bay Area Rapid Transit District Hayward station, the Amtrak station, the Greyhound station, and the Alameda-Contra Costa Transit District bus stops.

XV. UTILITIES / SERVICE SYSTEMS: No mitigation required

Comment: The size and capacity of sewer facilities within the project area is generally adequate to support the project. The present water distribution system provides sufficient water supply and pressure to serve existing needs with reserve capacity to accommodate peak demand, fire protection and other emergencies. Emergency water supply is available from Alameda County Water District and from East Bay Municipal Utility District through emergency inter-ties with each agency

The program Environmental Impact Report prepared for the "Hayward Cannery Area Design Plan" approved in 2001 addresses the issue of solid waste disposal and determined that additional quantities of solid waste, including construction debris, could be accommodated at the nearest landfill. Deconstruction of existing structures requires permits from the City of Hayward and adherence to standards for disposal and re-use that mitigate potential significant impacts of the process.